IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7467 of 2007()

CRIME NO.398/07 OF BALARAMAPURAM POLICE STATION

: PETITIONERS/ACCUSED 1 & 2

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1. RAMESH @ RAJESH, S/O.RAJAYYAN,
IDAMALA KUZHI PUTHEN VEEDU, ANTHIYOOR,
BALARAMAPURAM P.O.

2. KUMAR @ RANJITH, S/O.DINESH,
KOLANCHIMELE PUTHEN VEEDU, PERINGANMALA,
KALLIYOOR P.O.

BY ADV. SRI.RENJITH B.MARAR
SRI.L.RAJESH NARAYAN
SMT.LAKSHMI RENJITH

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, BALARAMAPURAM
POLICE STATION, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7467 of 2007

Dated this the 5th day of December 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 2. Altogether there are four accused persons named in the F.I.R. They face allegations in the crime registered under Section 394 I.P.C. The de facto complainant and his brother were carrying on some business in the sale of milk packets in the city of Thiruvananthapuram. After a day's work when they were returning home with cash with them, they were allegedly stopped by the four accused persons who demanded that money must be paid to them as loan. The victims had refused. They were assaulted and an amount of about Rs.3,500/- available with them was taken away by force. They suffered injuries. They were taken to the hospital promptly. They made allegation of assault to the doctor. The police reached there to record their statement only on 3/11/2007. The F.I statement was recorded. F.I.R was registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. There was a dispute between the alleged victims and the petitioners about amounts due. An innocuous incident which took place is now blown within proportion and a totally false allegation is being raised against the petitioners now. The counsel also relies on the delay till 3/11/2007 in lodging the F.I.statement of the crime which admittedly took place on 31/10/2007. The learned counsel for the petitioners prays that the petitioners may be granted anticipatory bail.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there is nothing to show that there is any financial transaction between the victims and the assailants. It was just an illegal demand for money on the strength of the muscle power which the accused could command.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under

Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitionerd surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007